

27
Office - Supreme Court, U. S.

FILED

FEB 9 1945

CHARLES ELMORE CROPLEY
CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, A. D. 1944.

No. 934

WILLIAM A. DOSS,

Petitioner,

vs.

E. E. LINDSLEY, SHERIFF, PIATT COUNTY, ILLINOIS,

Respondent.

**PETITION FOR WRIT OF CERTIORARI AND
BRIEF IN SUPPORT THEREOF.**

WILLIAM A. DOSS,
Martin Bldg.,
Monticello, Ill.



INDEX.

SUBJECT INDEX.

	PAGE
Petition for writ of certiorari.....	1
Short Statement of the Case.....	2
In the State Courts.....	2
The Newspaper Articles Claimed to Con-	
stitute Contempt of Court:.....	3
Issue Nov. 8, 1941.....	3
Issue Nov. 15, 1941.....	4
Issue Dec. 23, 1941.....	5
Issue Dec. 26, 1941.....	7
Issue Jan. 10, 1941.....	7
Conclusion of Information.....	8
In the United States Courts.....	14
Petition	14
Answer	14
Subsequent Proceedings	15
Conclusion	20
Statement of matters involved and the reasons re-	
lied upon for the allowance of the writ.....	16
Stipulation to omit certain Exhibits from the	
printed transcript being Liberty Press Issues,	
which Exhibits petitioner is moving to have for-	
warded to the Court.....	15
Brief in support of petition.....	22
Opinion of Court below.....	22
Jurisdiction	22
Date of judgment	22
Statement of case	23
Specifications of error [and arguments thereon]..	28
Conclusion	35
Appendix	37
Statutes and Constitution involved.....	13, 18, 20, 37

TABLE OF CASES CITED.

Amendment VIII to the U. S. Constitution.....	13
American Mfg. Co. v. City of St. Louis, 250 U. S. 459, C. 462, 39 S. Ct. 522.....	35
Atkinson v. Detroit Free Press Co., 46 Mich. 341, 382, 383, 384	20
Bridges v. State of California, 314 U. S. 252, 86, L. Ed. 192	18, 28, 29, 30, 31, 34
Dred Scott v. Sandford, 19 Howard, 393.....	32
Getchel v. People, 146 Ill. 175.....	11
Howard v. Fleming, 191 U. S. 126, 24 S. Ct. 49.....	35
Jamison v. State of Texas, 63 Sup. Ct. 669.....	18
Largent v. State of Texas, 63 Sup. Ct. 667.....	18
People v. Gerold, 265 Ill. 448.....	11

SUMMARY OF ARGUMENT.

Similarity to Bridges Case v. State of California.....	
.....	28, 29, 30, 31, 34
Publications not critical or disrespectful of Court itself or the Grand Jury.....	29, 30, 31, 32
Publications to be contumacious, must create "clear and present danger of evil" in the administration of justice	28
Criteria under the Constitution to other types of ut- terances are applicable "in contempt proceedings to out-of-court publications pertaining to a pending case"	29
It is not only the right, but a privilege of a citizen to bring to the attention of authorities and the public, by publications, violations of law	31

IN THE
Supreme Court of the United States

OCTOBER TERM, A. D., 1944.

No. _____

WILLIAM A. DOSS,

Petitioner,

vs.

E. E. LINDSLEY, SHERIFF, PIATT COUNTY, ILLINOIS,

Respondent.

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SEVENTH CIRCUIT, AND BRIEF IN SUP-
PORT THEREOF.**

*To the Honorable, the Chief Justice and Associate Justices
of the Supreme Court of the United States:*

Your petitioner, William A. Doss, *pro se*, respectfully prays that a writ of certiorari issue to review a decision of the United States Circuit Court of Appeals for the Seventh Circuit, entered on the tenth day of November, A. D., 1944, affirming the judgment of the District Court of the United States, for the Eastern District of Illinois, denying his petition for writ of habeas corpus against the Sheriff of Piatt County, Illinois and remanding him to the custody of that officer, etc.

I.

SHORT STATEMENT OF THE CASE.

I.

In the State Courts.

The following is as concise a summary as we think can fairly be rendered, of a long and complicated record of facts which were before the Judge of the District Court in the proceedings for habeas corpus, which ended on November 10, 1944 in the Circuit Court of Appeals, for the Seventh Circuit, by an affirmance of a decision of the lower court, denying the petition of this petitioner for writ of habeas corpus.

Petition: The petitioner was charged with contempt of court, as more particularly appears from the amended information filed in the Circuit Court of Piatt County, Illinois, by Special States Attorney, O. D. Mann, on the 13th day of May, 1942, and a copy was attached to the original petition for habeas corpus, marked "Exhibit A", and appears in the transcript of record, pages 7 to 26 inclusive and to avoid repetition for particularity reference thereto is hereby made. Petitioner's motion to strike this information was denied by the Circuit Court of Piatt County and petitioner thereafter filed his verified answer which appears in the transcript, on pages 26 to 59 inclusive.

The charge of contempt was based upon publication and delivery of a certain paper published by petitioner at and from his office in the City of Monticello, Illinois, and delivered to the general public over said Piatt County and to the Grand Jurors, or certain Grand Jurors, then in session or recess in and for the October Term, 1942 of said Circuit Court of Piatt County, while and during, the informa-

tion alleges, the said Grand Jurors were investigating alleged libelous publications previously made in the said Liberty Press against Carl I. Glasgow, States Attorney of Piatt County, and other persons. The information alleged that the said publications were contumaciously, unlawfully and wilfully issued and tended to wrongfully influence the said Grand Jurors and to interfere with them and influence them in the performance of their duties as such, and to impede, obstruct and interfere with and injure the administration of public justice. Copies of the respective publications were attached to the information and made a part thereof by reference. The substance of such published articles is briefly abstracted below:

A.

The Newspaper Articles Claimed to Constitute Contempt of Court.

(a—ISSUE OF NOVEMBER 8, 1941.) This publication consisted of forty-six mimeographed legal size pages and the information refers to pages 1, 39, 40, 41 and 42 of said issue. The petitioner in this publication first stated that he was aware that the Grand Jury was about to meet and that the States Attorney, one Glasgow, was calling such Grand Jury into session for the purpose of indicting the petitioner on a charge or charges, the nature of which was unknown to him. The petitioner had not been arrested or charged with any crime or informed against before any magistrate or committing officer in relation to any matters which rumor indicated might be brought to the attention of the Grand Jury. He had had no intimation that this Grand Jury might be asked to investigate any complaints or charges of criminal libel. Petitioner then gave notice to the States Attorney and to each Grand Juror of his willingness to appear voluntarily before such Grand Jury,

sign immunity waiver and testify on any and all subjects which the States Attorney or the Grand Jurors desired, calling attention in such notice to his constitutional right to publish facts and the truth concerning any person or any subject matter, when done with good motives and for justifiable ends. (Liberty Press, Nov. 8, 1941, Page 39.) The article mentions and reviews several activities on the part of the States Attorney and other lawyers of Piatt County which the petitioner charged would bear investigation, and notifies the Grand Jury that it has the legal right and it is its duty to hear evidence concerning any crime of any person and to initiate investigations, whether the States Attorney so advises or not. The article states that "Now is as good a time as any to start to clean out the Court House", and advises the Christian people of Piatt County to contact the Grand Jurors and ask them to investigate all things in Piatt County. (Liberty Press, Nov. 8, 1941, Page 42.) The article gives the names of the foreman and twenty-two members of the Grand Jury. The article further recites the details of several criminal matters arising in Piatt County with which the States Attorney had been connected, and informs the public of the particular unprofessional, illegal and criminal connections of the States Attorney with those various proceedings.

(b—ISSUE OF NOVEMBER 15, 1941.) This issue consists of forty mimeographed legal size pages. The information specifically refers to items appearing on pages 10, 17, 37, and 38, and that certain statements were made in the said publication which were contemptuous. Such article informed the people of Piatt County that the States Attorney, Glasgow, in the Muse bastardy case, told and instructed a witness that such witness need not testify, and that such witness could refuse to testify on the constitutional ground that he might incriminate himself, and inquired why the States Attorney of Piatt County should do

anything to hinder, conceal or hold back the truth in a criminal case. (Liberty Press, Nov. 15, 1941, Page 10.) The article further reviews the improper activities of the States Attorney in various legal matters in Piatt County, and on page 37, informs the public that the most contemptible thing which "they could do was to try to have Carl Glasgow, States Attorney, get the Grand Jury to indict Judge Doss, (the petitioner)"; and on page 38, the published article continues by stating, "you can now understand why it is important to elect a States Attorney who is really honorable, entirely fair, entirely square to every citizen, with favors to none, and that all shall be treated alike."

(c—ISSUE OF DECEMBER 23, 1941.) This article informs the public that the States Attorney, Glasgow, as the tool and instrument in the hands of gangism and attorney power in Piatt County, had appeared before the Grand Jury as a witness, and that having so appeared as a witness, could not sign the indictment as the States Attorney, and that in order to "cover up" he was getting some other attorney out of the County, especially appointed as States Attorney for the sole purpose of indicting Judge Doss (the petitioner), but that the Supervisors of Piatt County would not authorize the hiring of a Special States Attorney for that purpose. (Liberty Press, Dec. 23, 1941, Page 1.) The article further states that the publisher knows of no law that he was violating and that it certainly could not be contempt of Court to drop Liberty Press issues throughout the County, as Churchill, over in England, was doing over Germany, (Liberty Press, Dec. 23, 1941, Page 1); the article was not concealed from anybody, but could even reach the hands of the three Circuit Judges of the district and that if the Grand Jurors could have a copy of that issue they could read the full and complete law on the subject as well as any lawyer could tell them.

(Liberty Press, Dec. 23, 1941, Page 2.) The article further informed the public that the publisher had never admitted that he was guilty of either civil or criminal libel because the articles published were the truth and were published for good purposes and justifiable reasons. (Liberty Press, Dec. 23, 1941, Page 5.) The article told the Grand Jury that it was its duty to consider all the law in any matters that they were investigating and that they should read Section 404 of the Illinois Criminal Code; (Liberty Press, Dec. 23, 1941, Page 5) the article then charged that the reason Shonkwiler, Hutson, Hawbaker and others have not sued the publisher for any damages is because, under Section 6, Chapter 126, Illinois Revised Statute, the publisher can prove the truth of the charges made in the publication as a defense. (Liberty Press, Dec. 23, 1941, Page 5.) The article further stated, "No grand juror is bound to accept the interpretation of the law by any States Attorney. They have taken no oath to do that. If the law were otherwise, then a designing, and wicked-minded States Attorney as I charge States Attorney Glasgow is, can cause irreparable damages, and that is contrary to the spirit of our Bill of Rights, and our Constitution and our Statutes of Illinois, and I charge he has given improper instructions as to the law to our present grand jurors and caused them to take positions adverse to me which otherwise they would not have taken and which they now regret." (Liberty Press, Dec. 23, 1941, Page 6.) The article further states, "that the Grand Jurors, not being lawyers, naturally do not know what may be, or may not be, the legal position of an indictment in their hands not yet actually filed and returned to the honorable court—but if they will inquire of any of the three honorable Circuit Judges of this district, they will be advised that so long as an indictment is still in their hands and has not actually been filed in court the Grand Jury can reconsider the

same upon their own motion and withdraw it if they should so decide", (Liberty Press, Dec. 23, 1941, Page 8) and further that "The Grand Jury can require and should require no legal advisor to them to be in their room when they vote an indictment or other matters. (Liberty Press, Dec. 23, 1941, Page 8.) The article continues with a statement, "Nothing that I have said herein is intended as charging any disrespect of any kind to the honorable Circuit Court of Piatt County, nor any of its Judges, no matter what Judge or Judges have presided over any of the matters to date, and the only comment that I would make is, that I think the Judges have done a pretty good job in handling a terrible legal-mess that they have been obliged to face and try to manage in the best way that they can with due regard and fairness to the best interest of the parties concerned." (Liberty Press, Dec. 23, 1941, Page 8).

d—ISSUE OF DECEMBER 26, 1941.) This article is similar in tone and substance to the previous article, but concludes by stating, "I have published this article to show that really what is causing the world war today is because the world does not recognize and is not willing to live by the principles set forth in our Federal Bill of Rights! This is a vital matter and it is singular that this attorney gang issue could come up in the way that it has, and now presents an issue before our honorable Grand Jury of this County, so it will construe and give life and effect—or death, to not only our Federal Bill of Rights, but our State of Illinois Constitution and our own Statute on the freedom of speech and freedom of publication as applied to Piatt County." (Liberty Press, Dec. 26, 1941, Page 10.)

(e—ISSUE OF JANUARY 10, 1942.) The article recites that the Circuit Clerk has sent out a notice to the Grand Jury to return on the 15th, which is the last day of the October Term of Court and that the writer is accordingly much

disappointed that they have not been called sooner and because the foreman, Ed. Kanitz, has not called the Grand Jury sooner himself since the publisher had placed several matters in his hands which he cannot possibly dispose of on January 15th, and it looks like those matters are not going to be investigated and that is not as it should be. (Liberty Press, Jan. 10, 1942, Pages 33-34.) The article continues by stating that if there were matters that certain attorneys wanted investigated, they could through the States Attorney, have the Grand Jury back here every day, but now that those attorneys have found out that their scheme is about to touch hot irons, to their own skins, they do not want the Grand Jury to come back, and the publisher further states, "I believe that when the people of Piatt County fully understand this,—another dirty trick of these attorneys,—that they will demand that something be done about these things, and while this Grand Jury, under the guidance of Ed. Kanitz, as foreman, may not go into these things, maybe the next Grand Jury will," (Liberty Press, Jan. 10, 1942, Page 34) and the writer expresses the hope that the court of public opinion, the people, will demand a full, fair, frank and honest investigation of all matters and that they are welcome to investigate every charge the writer has made in the Liberty Press, from even the first issue and that the writer will prove his charges and prove his justification. (Liberty Press, Jan. 10, 1942, Page 34.)

(Conclusion of Information.)

The information concluded that the matters so published in the Liberty Press were all calculated to prevent, frustrate, influence and interfere with the progress, operation and conduct of the investigation before the Grand Jury and to intimidate and influence it in the performance of its duties and such as to bring the authority and dignity of

the court into disrepute and to impair the reputation of the court, to thwart and hinder the due administration of justice by the court, and that each of the statements aforesaid were willful, wrongful, unlawful, malicious and contemptuous of the court; the information then continued with a prayer that a citation issue out of said court requiring the respondent to appear before said court in a short day to be fixed, to show cause, if any, why he should not be punished for contempt of court.

To the information as above summarized the petitioner filed answer in the Circuit Court of Piatt County, alleging that no act alleged to constitute contempt of court had occurred in the presence of the court; that insufficient facts are stated to constitute a contempt or indicate interference with lawful proceedings before the grand jury; that the information does not deny the truth of the statements or the facts published in the Liberty Press and quoted in the information, and that the information is general, vague and lacking in specific statements of fact; that the information charges petitioner with informing the Grand Jury that certain situations should be investigated, which is not violative of any law of the State of Illinois, nor contempt of court, nor does it indicate the likelihood that substantive or serious evil will result from the publication of such statements, or that it tended in any way to interfere with the administration of justice.

Petitioner further answered that the paragraphs from Liberty Press quoted in the information upon their face negative any possibility of interference with the administration of justice and that the suppression of the right to make such statements was likely to result in serious or substantive evil.

Petitioner further stated that the information showed upon its face that it was inspired by malice and not from a desire to protect public justice.

Petitioner admitted the publications of the articles and the portions quoted in the information, but denies that they were contumacious, intended to interfere with the administration of justice, or that the publications thereof unlawfully tended to create, or unlawfully gave rise to substantive evil of any kind. Petitioner claims that the publications were lawfully warranted and were lawful self-defense actions, and cites among other matters, some of the circumstances as disclosed in this record in the affidavits of two of those Grand Jurors, namely, first, one James Busick, in which affidavit at transcript page 51, he deposed: "Affiant further states that he heard said Special States Attorney Mann state before the said grand jurors, and before a true bill was voted against William A. Doss in either of the four above described indictments, to the effect that 'if you (meaning the said Grand Jurors) do not vote indictments (meaning some one or all of these indictments above mentioned) against Judge Doss (meaning William A. Doss), you (meaning said Grand Jury) cannot be considered as good American citizens, you wouldn't be fit to be considered as citizens of the United States', and, in addition thereto, said in substance, further that 'it is your duty (meaning the duty of the grand jury) to support and stand by your States Attorney (meaning Carl I. Glasgow) in what he wants done in these matters (meaning finding said indictments):'" and Busick further deposed, (transcript 47, 48)—"That at various times and on various occasions while these Liberty Press articles were before said Grand Jury, said Carl I. Glasgow stated in substance, that 'Judge Doss, (meaning William A. Doss), should be indicted for the articles published in the Liberty Press issues, some of those issues of which were in evidence before said Grand Jury', and said Glasgow further stated, on one occasion, that if this Grand Jury did not indict Judge Doss, (meaning William A. Doss), that the

next Grand Jury would, or we will continue until they do'"; the second Grand Juror, one Paul Silver, deposed to the same effect upon the statements made by Special States Attorney Mann, (transcript 58), and by States Attorney, Carl I. Glasgow, (transcript 55).

These actions by these prosecuting officers, were in violation of the Law of the State of Illinois and violated the Constitutional rights of this petitioner in not being accorded due process of law in these official Grand Jury investigations,—the Supreme Court of Illinois in the case of *Gitchel v. People*, 146 Ill. 175, in noting the duties of a States Attorney said: "He may be present, (with the Grand Jury), to give advice, to question the witnesses, to draw such Bills as the Jurors are prepared to find and to give such general instructions as to the law as occasion may require, but he must not attempt to influence or direct the actions of the Grand Jury in respect to their findings; nor be present when they are deliberating on the evidence or when their vote is taken"; again, the Supreme Court said, in *People v. Gerold*, 265 Ill. 448, "Such an officer, (States Attorney) is acting in a quasi judicial capacity, (before the Grand Jury) representing such Jury, and should stand indifferent as between the accused and any private interest."

Petitioner denied that the publication was wilful or malicious in any degree but alleged that the statements of facts therein contained were true and were made from good motives and for justifiable ends.

Petitioner answered further that the matters published and referred to in the information were not intended to bring justice into contempt, to interfere with the administration thereof, or to reflect upon the Court or the Grand Jury, and so specifically stated in the publications.

The information for contempt was heard only upon the

said amended information and the answer of this petitioner thereto. No witnesses were heard; and the case was heard by the Court without a jury. The trial judge, on the 22nd day of May, 1942, in the Circuit Court of Piatt County, held the answer insufficient to purge petitioner of contempt, and entered sentence of three months in the County Jail of said County and a fine of \$2,000.00 and costs, and to stand committed until the same was paid, and the sentence not to run concurrently with any other sentence or judgment.

From the said judgment of the Circuit Court of Piatt County, Illinois, petitioner appealed to the Supreme Court of Illinois, where said judgment was affirmed; that thereafter petitioner applied for a writ of certiorari to the United States Supreme Court, but which was denied, and upon the following order:

"Petition for writ of certiorari to the Supreme Court of Illinois denied for the reason that application therefore was not made within the time provided by law. Section 8 (a), Act of February 13, 1925 (43 Stat. 936, 940), 28 U. S. C., Section 350. Entered October 11, 1943."

Thereafter, petitioner filed his said petition first hereinabove described for habeas corpus in the United States District Court for the Eastern District of Illinois, on December 1, 1943, and the grounds therefore are specifically set forth in the transcript of record filed in this cause on pages 3 to 7 inclusive, and upon the grounds as follows:

(1) That the amended information for contempt involved matters and charges totally and exclusively arising upon facts all beyond the presence of the court, and involved none committed in its presence, and are charged to be criminal in nature. In proceedings under the Illinois Law, charging a contempt for acts committed out of the presence of the Court; no evidence is heard and the re-

spondent by his mere affidavit may purge himself of the charged contempt. If the affidavits are false, he may be prosecuted for perjury. If the affidavits are true, and set up a lawful defense, the Court is in duty bound to discharge the defendant. The answer details a reply factually to each and every charge and allegation to the amended information, and as to all of which now the petitioner says are true and that the statements made by petitioner in his answer are protected and guaranteed to him by the rights of freedom of speech and press under the Constitution of the United States and that such answer is a complete purge to the amended information.

(2) That the amended information discloses upon its face that it is an attempt to abridge and limit the rights guaranteed to petitioner by the Federal Constitution and its Amendments, namely, the right to the exercise of the freedom of speech and freedom of the press.

(3) The judgment and sentence of three months in jail and a fine of two thousand dollars,—the sentence not to run concurrently with any other sentence,—are alleged to be violative of Amendment VIII to the United States Constitution, in that the fine is excessive, and the three month's jail sentence not to run concurrently with any other sentence, is cruel and an unusual punishment, and is indefinite and uncertain.

The Supreme Court of Illinois affirmed the judgment and sentence of the lower Court on January 15, 1943, and on March 11th following, struck defendant's petition for rehearing. On June 11, 1943, this petitioner filed in the Supreme Court of the United States, his petition for certiorari to be directed to the Supreme Court of the State of Illinois, which petition was by this Court denied in an order entered October 11, 1943, as above quoted. Petition for rehearing was denied by the Supreme Court of the United States on November 15, 1943. The petition for cer-

tiorari above referred to, was filed to review the judgment of the Supreme Court of the State of Illinois affirming the judgment of contempt against this petitioner, entered in the Circuit Court of Piatt County, wherefore it appeared to this petitioner that he had exhausted all of his remedies under the laws of the State of Illinois and was without a remedy, except by petition for habeas corpus to the District Court of the United States for the Eastern District of Illinois.

II.

In the United States Courts.

Petition: The matters of facts set forth and summarized in the preceding paragraphs of this petition, stating the contents of the information, the answer thereto and the proceedings in the Circuit Court of Piatt County, Illinois and the Supreme Court of the State of Illinois, were set forth in the petition for habeas corpus filed in the District Court of the United States for the Eastern District of Illinois, as heretofore mentioned and no further restatement of these facts is deemed to be necessary.

Answer: To the petition for habeas corpus, the respondent, E. E. Lindsley, Sheriff of Piatt County, filed his verified answer on December 8, 1943, which appears in the transcript of record at pages 64 to 71 inclusive, and in substance, generally denies that the petitioner is held in violation of the Constitution of the United States, and further says, "that the Petition shows upon its face that the petitioner has been denied a writ of certiorari by the Supreme Court of the United States to review the decision of the Circuit Court of Piatt County, Illinois, and the Supreme Court of the State of Illinois, and that petitioner therefore, is not entitled to a writ of habeas corpus in this Court."

Subsequent Proceedings: Upon the petition and answer, the case was heard by Hon. Walter C. Lindley of the United States District Court on January 4, 1944; on January 8th, Judge Lindley denied the petition for habeas corpus, his opinion and judgment appearing on pages 74 to 85 inclusive of the transcript of the record. On February 1st, following, an appeal was perfected by this petitioner to the Circuit Court of Appeals, for the Seventh Circuit, (see transcript pages 87-88; 89-90; 91-92; 92-94; 97-98), which the Court, on November 10, 1944, affirmed the decision of the District Court, without opinion.

The petitioner relied in the Circuit Court of Appeals upon an Assignment of Errors, substantially as follows:

(1) That the United States District Court for the Eastern District of Illinois, erred in dismissing the petition of the plaintiff;

(2) That the Court erred in holding that the plaintiff had not exhausted his remedies in the State Courts of the State of Illinois;

(3) That the Court erred in holding that the plaintiff was not in custody as required by the laws of the United States;

(4) That the said Court erred in holding that upon the merits of said cause, plaintiff was not entitled to be released and discharged on writ of habeas corpus;

(5) Said decree and judgment are contrary to the law and deny to the plaintiff protection afforded him by the Constitution of the United States.

On March 21, 1944, attorneys for petitioner, (Appellant), A. M. Fitzgerald and Walter T. Day, and Oliver D. Mann, attorney for respondent, E. E. Lindsley, Sheriff aforesaid, entered into a stipulation to "omit certain exhibits from the printed transcript of the record and to supply type-

written or printed copies in lieu thereof", as appears on pages 97 and 98 of said transcript of the record.

On petition of this petitioner, the Circuit Court of Appeals for the Seventh District, recalled its mandate to the District Court for the purpose of enabling this petitioner to take the necessary steps to petition the Supreme Court of the United States for a writ of certiorari, directed to the Circuit Court of Appeals for the Seventh Circuit in this case, all of which appears in the transcript of the record, pages 128 to 135 inclusive; the Court stayed a re-issuance of the mandate to and including January 26, 1945, in order to give petitioner time to prepare and file his petition for certiorari in the Supreme Court of the United States. On January 23, 1945, on motion of this petitioner, the issuance of the mandate was further stayed to and including February 10, 1945, to enable petitioner to prepare and file his petition for certiorari.

III.

Statement of Matters Involved and the Reasons Relied Upon for the Allowance of the Writ.

The discretionary powers of this Court to grant a writ of certiorari is invoked on the following grounds:

First. The instant proceeding is a cause wherein final judgment rendered by the Supreme Court of the State of Illinois, being the highest Court of that State in which a decision could be had, draws in question the validity of a Statute of the State of Illinois on the ground that it is repugnant to the Constitution and laws of the United States.

Second. The instant proceeding is a cause wherein also the final judgment rendered by the United States District Court for the Eastern District of Illinois and a final judg-

ment by the United States Circuit Court of Appeals for the Seventh Circuit draw in question also the validity of that Statute of the State of Illinois on the ground that it is repugnant to the Constitution and laws of the United States.

Third. The instant proceeding involves a trial right, privilege and immunity specifically set up and claimed by the petitioner under the Constitution of the United States and the Federal Bill of Rights.

Fourth. The decision of the Supreme Court of the State of Illinois abridges the right of free speech and freedom of the press as defined and granted by the Constitution of the United States, Amendment I, (Bill of Rights), and by the Constitution of the State of Illinois, Article II, Section 4.

Fifth. The decisions of the Courts above referred to, show an inability to reconcile the right of free speech and free press, as protected by the Constitutions of the United States and of the State of Illinois, with the historical power of the Courts to protect their own dignity and to prevent interference with the due administration of justice. As a result of this failure to ~~recognize the~~ ^{reconcile these} fundamental concepts of the law, this petitioner has been deprived of certain fundamental constitutional rights and privileges.

Sixth. The information on which petitioner was convicted in the trial court, was based on alleged facts and occurrences, all of which originated beyond the presence of the Court; no testimony was introduced and the only evidence before the trial Court was an affidavit by this petitioner, respondent, in the trial Court. Under the State procedure, if the statements in the affidavit were untrue, the affiant became subject to prosecution for perjury, and if the affidavit be found to be true, the trial Court was bound to hold the respondent, petitioner here, purged of

the contempt charge. Inasmuch as the State did not introduce affirmative proof against, or otherwise challenge the truth of the facts set forth in the affidavit, it was the legal duty of the Court to take the statements therein as true and hold this petitioner purged of the contempt charge. This, the Circuit Court of Piatt County, Illinois, did not do, and the affirmance of the conviction by the Supreme Court of the State of Illinois therefore denied to the petitioner, due process of law to which he was entitled in the State of Illinois. The holding of the Supreme Court of the State of Illinois renders nugatory the provisions of the Bill of Rights of the Federal Constitution, (Amendment I), and the XIV Amendment, Section 1, and the Constitution of the State of Illinois, Article II, Section 4, guaranteeing to the petitioner, the right of freedom of speech and of the press, and is in conflict with the decisions in the following cases:

Harry Bridges v. State of California (1941), 314 U. S. 252, 86 L. Ed. 192.

Largent v. State of Texas (1943), 318 U. S. 418, 63 S. Ct. 667, 669.

Jamison v. State of Texas (1943), 318 U. S. 413, 63 S. Ct. 669, 671, 672.

In the Texas cases cited above, the general power which a city concededly has over its own streets, was invoked in such a way as to destroy the fundamental rights of defendant "to express his views in an ordinary fashion", just as in the instant case, the general and historic powers of the Court to protect its own dignity and enforce the ordinary administration of justice, is invoked in an attempt to imprison this petitioner for the exercise, in an ordinary fashion of the Constitutional right of free speech and free press. There is no evidence in the record and the excerpts contained in the information as a basis of the

charge against this petitioner are wholly inadequate as justification of the suppression of free speech and free press and no reasonable grounds to fear that serious evil will result if freedom of the press be practiced, as it was by petitioner, nor, is there any reasonable ground to believe that the danger was imminent that any serious or substantive evil would result unless such suppression occurred. Such was the holding in the case of Bridges against the State of California, *supra*.

Seventh. The statements and excerpts from the Liberty Press published by this petitioner, which were made the basis of the prosecution upon which the State below rested its case, were indubitably made in forceful and unequivocal language. The Constitutional guarantee of free speech and free expression, however, does not compel insipidity in presenting the truth. ~~Thus~~ ^{vocal} the petitioner is wholly unable to improve upon the language of Judge Cooley on this subject when he said:

"The beneficial ends to be subserved by public discussion would in large measure be defeated if dishonesty must be handled with delicacy and fraud spoken of with such circumspection and careful and deferential choice of words as to make it appear in the discussion a matter of indifference. * * * Who would venture to expose a swindler or a blackmailer, or to give in detail the facts of a bank failure or other corporate defalcation, if every word and sentence must be uttered with judicial calmness and impartiality as between the swindler and his victims, and every fact and every inference be justified by unquestionable legal evidence? The undoubted truth is that honesty reaps the chief advantages of free discussion; and fortunately it is honesty also that is least liable to suffer serious injury when the discussion incidentally affects it unjustly. * * * The law, justly interpreted, is not chargeable with the inconsistency of tempting conductors of the press with a deceptive pretence of lib-

erty and then punishing them in damages if they act upon the assumption that the liberty is genuine."

Atkinson v. Detroit Free Press Co., 46 Mich. 341, 382, 383, 384.

Eighth. The provisions of the XIV Amendment to the Constitution of the United States respecting due process and prohibiting the States from interfering therewith, are not mere guides to the formation of policy, but are commands, the breach of which is not to be tolerated by the Courts, as pointed out in the case of *Bridges v. State of California*, *supra*.

Ninth. The specific purpose in ratifying the Bill of Rights was to make clear the securing for the People of the United States greater freedom of religion, expression, etc., which includes freedom of the press as an inalienable right.

Tenth. Petitioner has exhausted all of his remedies for relief under the Laws of the State of Illinois.

Conclusion.

Wherefore, your petitioner prays that the writ of certiorari issue under the seal of this Court, directed to the United States Circuit Court of Appeals for the Seventh Circuit, commanding the said Court to certify and send to this Court, a full and complete transcript of the record and of the proceedings of the said Circuit Court of Appeals had in case No. 8542, entitled, "William A. Doss, Plaintiff-Appellant, *vs.* E. E. Lindsley, Sheriff of Piatt County, Illinois, Defendant-Appellee, Appeal from the District Court of the United States for the Eastern District of Illinois," to the end that the decision and judgment of the said Circuit Court of Appeals for the Seventh Circuit may be reviewed and determined by this Court as provided

by the laws of the United States; and that the judgment herein of the said Circuit Court of Appeals be reviewed and reversed by this Court and for such other relief as this Court may deem just and proper.

WILLIAM A. DOSS,
Petitioner,
Pro Se.